

REVIEW FOR APPLICABILITY OF/COMPLIANCE WITH ORDINANCES/POLICIES

FOR PURPOSES OF CONSIDERATION OF

An Ordinance Amending Title 6 of the San Diego County Code relating to Vector Control to Establish a County-wide Eye Gnat Program; ER#12-00-001

~~May 18, 2012~~ October 31, 2012

I. HABITAT LOSS PERMIT ORDINANCE – Does the proposed project conform to the Habitat Loss Permit/Coastal Sage Scrub Ordinance findings?

YES

☒

NO

☐

NOT APPLICABLE/EXEMPT

☐

Discussion:

The proposed project is the Eye Gnat Ordinance and Program which would allow the County authority to take abatement actions when eye gnats cause a nuisance to the public. Some of the organic farms are located outside of the boundaries of the Multiple Species Conservation Program and may be in close proximity to habitats subject to the Habitat Loss Permit/Coastal Sage Scrub Ordinance. Any potential abatement measures would occur on existing organic farm and would not involve any further ground disturbance other than the routine farming activities. ~~In addition, if the utilization of pesticides is warranted, farmers are required to follow the label instructions to prevent the pesticides from drifting to wildlife, sensitive species, habitat, or water course.~~ Therefore, the proposed Eye Gnat Program would be compatible with the Habitat Loss Permit Ordinance.

II. MSCP/BMO - Does the proposed project conform to the Multiple Species Conservation Program and Biological Mitigation Ordinance?

YES

☒

NO

☐

NOT APPLICABLE/EXEMPT

☐

Discussion:

The proposed project is the Eye Gnat Ordinance and Program which would allow the County authority to take abatement actions when eye gnats cause a nuisance to the public. Some of the organic farms are located inside of the MSCP boundary, and agricultural use is considered a compatible land use under the program. It is not expected that the proposed Eye Gnat Abatement Program would result in expansion of existing agricultural operations within the MSCP boundary, and the potential abatement measures would not involve any ground disturbance other than the routine farming activities. ~~In addition, if the utilization of pesticides is warranted, farmers are required to follow the label instructions and adhere to existing Best Management Practices to prevent the pesticides from drifting to wildlife, sensitive species, habitat, or water course.~~ Furthermore, the adoption or amendment of any Ordinance is exempted from

the BMO pursuant to Section 86.503(a)(3) of the Biological Mitigation Ordinance. However, no project within the MSCP County Subarea Plan or within the City of San Diego's Multiple Habitat Planning Area (MHPA), regardless of exemption status, may conflict or otherwise hinder the MSCP preserve system.

III. GROUNDWATER ORDINANCE - Does the project comply with the requirements of the San Diego County Groundwater Ordinance?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

Discussion:

Pursuant to Section 67.711 of the Groundwater Ordinance, the Ordinance is applicable to discretionary land development (General Plan Amendments, Specific Plan, Tentative Parcel Maps, Tentative Maps, Revised Maps, Expired Maps, Rezone, Major Use Permits, Major Use Permit Modifications, Certificates of Compliances, and Boundary Adjustments) that would utilize groundwater for water resources. In addition, Section 67.702 of the Groundwater Ordinances states that the ordinance is not intended to "limit or restrict agricultural activities, but to ensure that development will not occur in groundwater-dependent areas of the County unless adequate groundwater supplies are available to serve both the existing uses within the affected groundwater basin and the proposed uses". Therefore, the proposed Eye Gnat Program would not be incompatible with the Groundwater Ordinance.

IV. RESOURCE PROTECTION ORDINANCE - Does the project comply with:

The wetland and wetland buffer regulations (Sections 86.604(a) and (b)) of the Resource Protection Ordinance?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

The Floodways and Floodplain Fringe section (Sections 86.604(c) and (d)) of the Resource Protection Ordinance?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

The Steep Slope section (Section 86.604(e))?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

The Sensitive Habitat Lands section (Section 86.604(f)) of the Resource Protection Ordinance?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

The Significant Prehistoric and Historic Sites section (Section 86.604(g)) of the Resource Protection Ordinance?

YES

☐

NO

☐

NOT APPLICABLE/EXEMPT

☒

Pursuant to Section 86.603 of the Resources Protection Ordinance (RPO), the RPO is applicable to discretionary applications such as Tentative Map, Tentative Parcel Map, Revised Tentative Map and Revised Tentative Parcel Map, Rezone, Major Use Permit, Major Use Permit Modification, and Site Plan, Vacation of Open Space Easement Expired Map, Certificate of Compliance, or Administrative Permit. The proposed project

is the Eye Gnat Ordinance and Program which would allow the County authority to take abatement actions when eye gnats cause a nuisance to the public, it is not a discretionary application, and therefore the RPO is not applicable in this case. Furthermore, the continuation of any on-going existing agricultural operation is exempted from the RPO pursuant to Section 86.605 (j) the RPO. Therefore, the proposed Eye Gnat Program would not be incompatible with the Resource Protection Ordinance.

V. STORMWATER ORDINANCE (WPO) - Does the project comply with the County of San Diego Watershed Protection, Stormwater Management and Discharge Control Ordinance (WPO)?

YES
☒

NO
☐

NOT APPLICABLE
☐

The proposed project is the Eye Gnat Ordinance and Program which would allow the County authority to take abatement actions when eye gnats cause a nuisance to the public. Pursuant to Section 67.805 (c) of the WPO, non-stormwater agricultural discharges that the State Water Resources Control Board or Regional Water Quality Control Board explicitly allows pursuant to a written waiver, waste discharge, or formal policy, provided that the discharger can demonstrate compliance with all relevant permit, waiver or policy conditions to the satisfaction of the State Water Resources Control Board or Regional Water Quality Control Board. ~~In addition, the State Water Resources Control Board and the Department of Pesticide Regulation have established a Management Agency Agreement (MAA) to ensure all pesticides registered in California are used in a manner that protects water quality, and the local administration of DPR's pesticide regulatory program is responsible for enforcing pesticide laws and regulations.~~ Therefore, the proposed Eye Gnat Program would not be incompatible with the Watershed Protection, Stormwater Management and Discharge Control Ordinance.

VI. NOISE ORDINANCE – Does the project comply with the County of San Diego Noise Element of the General Plan and the County of San Diego Noise Ordinance?

YES
☒

NO
☐

NOT APPLICABLE
☐

Discussion:

The proposed project is the Eye Gnat Ordinance and Program which would allow the County authority to take abatement actions when eye gnats cause a nuisance to the public. The potential abatement measures would not expose people to nor generate potentially significant noise levels which exceed the allowable limits of the County of San Diego Noise Element of the General Plan, County of San Diego Noise Ordinance, and other applicable local, State, and Federal noise control regulations. Therefore, the proposed Eye Gnat Program would comply with the County of San Diego Noise Element and the Noise Ordinance.